

MATTER OF VILANOVA-GONZALEZ

In Section 246 Proceedings

A-12046344

Decided by Board October 17, 1969

- (1) When there is a conflict of testimony in rescission proceedings under section 246 of the Immigration and Nationality Act, there must be an evaluation of all the evidence and a finding made with regard to its credibility before the clear, unequivocal and convincing burden of proof test of *Woodby v. Immigration and Naturalization Service*, 385 U.S. 276, comes into play.
- (2) A claim of prejudicial and unfair hearing accorded by the substituted special inquiry officer is rejected where a de novo review of the entire record fails to reveal any error on the part of the special inquiry officer with regard to his rulings as to the admissibility of the proffered evidence.
- (3) Section 241(f) of the Act, by its very terms, and the Supreme Court decision in *Immigration and Naturalization Service v. Errico-Scott*, 385 U.S. 214 (1966), are limited solely to a deportation proceeding and are not applicable to rescission proceedings under section 246 of the Act.

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(Brief filed)

The respondent appeals from a decision and order entered by the special inquiry officer on October 11, 1968 rescinding the adjustment of his nonimmigrant status to that of a permanent resident alien which was granted on June 23, 1960. Counsel on appeal maintains that the special inquiry officer's decision and order is not supported by evidence which is clear, unequivocal and convincing. Counsel also urges error in that there was prejudice and bias on the part of the special inquiry officer.

The record relates to a native and citizen of Spain who last entered the United States at the port of New York on February 9, 1960. He was admitted as a nonimmigrant visitor for business